



**MARINE FISHERIES ADVISORY COMMISSION
BUSINESS MEETING AGENDA**

8:00 AM

Thursday, August 18, 2022

Via Zoom

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Call In: 1-929-436-2866

Webinar ID: 885 2252 8111

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1. Introductions, Announcements and Review of Agenda
2. Review and Approval of the June 16, 2022 Draft Business Meeting Minutes
3. Comments
 - a. Chairman
 - b. Commissioner
 - c. Law Enforcement
 - d. Director
4. Item for Future Public Hearing
 - a. Vessel Trackers for Federal Lobster Permit Holders
 - b. Whelk Gauge Schedule Petition
 - c. Protected Species Regulatory Amendments and Clarifications
 - d. Area 1A (Gloucester/Rockport) Mobile Gear Open Season
 - e. Recreational Tautog Trophy Fish
5. Discussion Items
 - a. Updates Concerning the Atlantic States Marine Fisheries Commission
 - b. Updates Concerning Federal Fisheries Management
 - c. Protected Species Updates
 - d. Shellfish Program Updates
 - e. Recent Adjudicatory Proceedings
 - f. Quota Managed Species Update
6. Other Business
 - a. Commission Member Comments
 - b. Public Comment
7. Adjourn

Future Meeting Dates

September 13, 2022
Location TBD

October 18, 2022
Location TBD

All times provided are approximate and the meeting agenda is subject to change. The MFAC may amend the agenda at the start of the business meeting.

MARINE FISHERIES ADVISORY COMMISSION

June 16, 2022

SMAST East

836 S. Rodney French Blvd

New Bedford, MA 02744

In attendance:

Marine Fisheries Advisory Commission: Raymond Kane, Chairman; Michael Pierdinock, Vice-Chairman; Bill Doyle, Clerk; Kalil Boghdan; Shelley Edmundson; Bill Amaru; Lou Williams; and Tim Brady Absent: Arthur “Sooky” Sawyer

Division of Marine Fisheries: Daniel McKiernan, Director; Kevin Creighton, CFO; Story Reed; Jared Silva; Nichola Meserve; Melanie Griffin; Julia Kaplan; and Jeff Kennedy

Department of Fish and Game: Ron Amidon, Commissioner; Mark Reil, Director of Legislative Affairs; Jennifer Sulla, General Counsel

Massachusetts Environmental Police: Lt. Col. Pat Moran and Lt. Matt Bass

Members of the Public: Phil Coates

INTRODUCTIONS AND ANNOUNCEMENTS

Chairman Ray Kane called the June 16, 2022 Marine Fisheries Advisory Commission (MFAC) business meeting to order. He expressed excitement over meeting in person for the first time in two years.

REVIEW AND APPROVAL OF JUNE 16, 2022 DRAFT BUSINESS AGENDA

Dan McKiernan requested that the Belding Award Nomination be moved up the agenda and handled prior to “Action Items”. No objections were raised to this request.

Chairman Kane asked for a motion to approve the June 16, 2022 MFAC business agenda as amended by Director McKiernan. **Mike Pierdinock made the motion to approve the amended June 16, 2022 business meeting agenda. Tim Brady seconded the motion. The motion passed unanimously 7-0.**

REVIEW AND APPROVAL OF APRIL 7, 2022 DRAFT BUSINESS MEETING MINUTES

Chairman Kane asked for comments or edits to the April 7, 2022 MFAC draft business meeting minutes. No comments were made. Chairman Kane sought a motion to approve be moved. **Tim Brady made the motion to approve the April 7, 2022 business meeting minutes as provided. Mike Pierdinock seconded the motion. The motion passed unanimously 7-0.**

CHAIRMAN'S COMMENTS

Chairman Kane expressed his appreciation of DMF convening an in-person MFAC meeting since early 2020. He also commended DMF for their work running virtual meetings over the past two years.

COMMISSIONER'S COMMENTS

Commissioner Amidon echoed Chairman Kane. The Commissioner then discussed \$500,000 in capital funds for artificial reef enhancement and an additional \$350-400,000 allocated to upgrading DMF's office space in Gloucester and Salem.

LAW ENFORCEMENT COMMENTS

Lt. Matthew Bass provided comments for the Massachusetts Environmental Police (MEP). Lt. Bass stated trap fishermen were excited to get their gear in the water once the seasonal right whale protection closure was lifted. Regarding finfish fisheries, there had been no significant violations to date.

Jared Silva asked if MEP had encountered any issues regarding the appropriate way to measure striped bass. Lt. Bass noted the current "total length" definition was written when there was a minimum size, which allowed anglers to squeeze the forks together to get to the minimum size. Now with the slot limit, anglers were both fanning tails out to retain larger fish at the maximum size and squeezing tails to retain smaller fish at the minimum size. Lt. Bass suggested refining the definition of total length to improve enforcement and compliance. Jared Silva opined the MFAC Law Enforcement Sub-Committee should deliberate on this during the fall.

DIRECTOR'S COMMENTS

Director Dan McKiernan welcomed everyone to the meeting. The Director briefly touched on capital funding and wind energy development issues.

The menhaden limited access fishery trip limit had been reduced from 125,000 pounds to 25,000 pounds this week, as the fishery hit its quota utilization trigger. Nichola Meserve was working to secure quota transfers from other states to ensure the fishery could remain open into the summer period when local bait demand is higher. Dan stated there was interest in reducing the menhaden trip limit in future years to utilize the quota over a more prolonged period and keep the fishery open during periods when bait demand was high. Dan also noted the interstate fishery management plan may be amended to 2023 and these amendments may limit the mechanisms for small scale bait fishing to function once the state quota was utilized.

Dan McKiernan briefly discussed the state's FY23 budget and funding mechanisms. He then moved on to federal sea herring disaster funds. Congress had approved \$11.3 million in funding and he expected approximately \$3 million would be distributed to DMF

for Massachusetts fishery. However, there was some confusion about how to most effectively distribute funding throughout the region given vessels often land in multiple states. He expected this would be challenging and that the states would have to work through the ASMFC to develop a uniform approach to allocating fundings. Congress also allocated funding to the states to comply with the Atlantic Large Whale Take Reduction Plan gear modification requirements and recent ASMFC electronic vessel tracking mandates for federal lobster permit holders.

Mike Pierdinock asked how menhaden quota utilization in 2022 compared to prior years. Dan opined that it tracked similarly to prior years. DMF would provide a quota utilization presentations during late summer and early fall meetings, which would provide additional details.

BELDING AWARD NOMINATION

Dan summarized the purpose and significance of the Belding Award. He then nominated former MFAC Chairman Mark Amorello. Dan stated Mark's lifetime of work in marine fishery issues—including his time on the MFAC and NEFMC and his fish passage and restoration efforts through the Pembroke Herring Fisheries Commission—made him worthy of this distinction. Dan then sought the MFAC's support and approval of this nomination.

Chairman Kane sought a motion to approve the Director's nomination of Mark Amorello for the 2022 Belding Award. **Tim Brady made a motion to approve the recommendation from the Director. Kalil Boghdan seconded the motion. The motion was passed unanimously 7-0.**

ACTION ITEMS

2022 Recreational Fishing Limits for Black Sea Bass, Scup, and Summer Flounder

Jared Silva stated the recommended limits were adopted via an emergency regulation on April 29, 2022 and are currently in effect during the 90-day emergency period. This final action will codify these limits beyond the 90-day period, which ends on July 29. The recommended limits were:

1. *Black Sea Bass*. Adopt an open season of May 21 – September 4 with a 4-fish bag limit and 16" minimum size.
2. *Summer Flounder*. Adopt an open season of May 21 – September 29 with a 5-fish bag limit and 16.5" minimum size.
3. *Scup*. Increase the minimum size by 1" from 9" to 10" while retaining the same seasons and bag limits. For private anglers, the season is January 1 – December 31 with a 30-fish bag limit or a 150-fish vessel limit, whichever is most restrictive. For the for-hire fishery, the season is January 1 – April 30 and July 1 – December 31 with a 30-fish bag limit and a May 1 – June 30 "bonus season" with a 50-fish bag limit.

Nichola added that NOAA Fisheries had issued a final rule for federal 2022 recreational scup measures and determined not to close federal waters. This was initially proposed to further reduce MRIP-projected harvest limit because the 1" minimum size increase adopted by the coastal states did not achieve the requisite reduction. However, state directors and commissioners submitted a comment to NOAA Fisheries advocating that the federal proposal was heavy-handed when balancing impacts on recreational fisheries against conservation, particularly given the biomass of the stock and the continued underutilization of the ACL.

Mike Pierdinock thanked DMF and DFG for their contributions to comment letter to NOAA Fisheries and noted it was appreciated by the for-hire industry.

Chairman Kane sought a motion to approve the Director's to adopt final 2022 recreational fishing limits for black sea bass, scup, and summer flounder. **Mike Pierdinock made a motion to approve the recommendation. Shelley Edmundson seconded the motion. The motion was passed unanimously 7-0.**

Regarding recreational fishing limit adjustments for Georges Bank (GB) cod and Gulf of Maine (GOM) cod and GOM haddock, Jared Silva explained that there were delays in federal rulemaking. As a result, DMF was not in a position to propose complementary rules. Given the anticipated federal rule making timeline, Jared opined DMF would likely file emergency rules during the summer in response to federal filings, hold another public hearing on the subject during the late summer; and the submit final recommendations to the MFAC at an early fall meeting.

Mike Pierdinock noted the various negative consequences of the delays in federal rule making. First, anglers are foregoing an additional 5-haddock this spring and summer that they should otherwise be allowed. Second, the conservation benefits of the May – July cod closure is undermined by these delays, as the fishery remains open. As this fishery is most productive during the summer months, he was concerned these delays may result in the fishery exceeding harvest limits and NOAA Fisheries then requiring additional conservation in future years. Director McKiernan indicated DMF would draft a letter to NOAA Fisheries expressing these concerns.

ITEMS FOR FUTURE PUBLIC HEARING

Jared Silva expected DMF would host a virtual omnibus public hearing during the early fall. This hearing would address proposals presented to the MFAC at their June and August meetings. The items proposed at the June business meeting for public hearing area described herein.

Mackerel Possession Limit and Commercial Permit Endorsements

Jared discussed a proposal to establish a new regulatory section affecting Atlantic mackerel in response to the MAFMC's updated mackerel rebuilding plan. This new section would establish two specific requirements:

1. A 20-fish per person recreational possession limit for Atlantic mackerel. Exempt from this will be recreational anglers in possession of mackerel lawfully purchased from a bait dealer from which they have a receipt.
2. A commercial open entry regulated fishery permit endorsement for mackerel, which would be required to sell mackerel, as well as catch, possess, and land mackerel in quantities that exceed the recreational possession limit.

Jared explained the recreational limit for mackerel would apply similarly to the recreational limits for eel and lobster. Melanie Griffin and Dan also provided some additional background on the development of the 20-fish landing limit and how this was being coordinated between the northeaster states and the MAFMC.

Jared stated the commercial permit will not allow for a way to easily exceed the recreational limit; the part of the regulation that does not allow for mixing of commercial and recreational catch (with the one exception for bluefin tuna) would apply. Melanie added there was confusion surrounding permitting and how catch reporting will work. The MFAC asked NOAA Fisheries to enhance communication on the subject.

Ray Kane asked Melanie about incidental catch permits or restricting small boat access. Melanie stated the rebuilding plan did not address these issues.

Mike Pierdinock thanked DMF for working to avoid a recreational closure or lower bag limit. He asked about bycatch issues in the large-scale mid-water trawl fleet. Melanie stated she would have to look into the question. Ray Kane added that he was told the current TAC will not be reached this year since the mid-water trawl fleet is tied up due to impacts of the low TAC of fishery economics.

Kalil Boghdan and Melanie discussed the ongoing coordination among Maine, New Hampshire and Massachusetts. Melanie noted the majority of recreational Atlantic mackerel catch among these states occurs in state waters, unlike states to our south. She opined that the northern states would continue to coordinate towards complementary rules in states waters (e.g., 20-fish possession limit)

Bill Amaru and Mike Pierdinock asked about the federal court ruling overturning the mid-water trawl buffer zone. Melanie explained the court vacated the buffer zone established by Atlantic Herring Amendment 8 and the Department of Justice appealed the decision. While the buffer zone is not in place at this time, given low herring and mackerel quotas, Melanie questioned whether this will prompt fishing activity in the area.

Prohibition on Shortfin Mako Retention

Nichola Meserve discussed the public hearing proposal to ban retention of Atlantic shortfin mako caught in state waters. This is being proposed to comply with the Interstate Fishery Management Plan. Nichola stated the shortfin mako is not rebuilding as expected, and in order to meet the rebuilding timeline, ICCAT sought a retention prohibition while establishing a process whereby some retention could be allowed in the future subject to rebuilding progress. NOAA Fisheries had proposed and was in the

process of adopting this retention prohibition for federal waters. While Massachusetts does not have a state waters mako fishery, the rule would be adopted for regulatory consistency across jurisdictions.

Mike Pierdinock asked about the final federal rule. Nichola expected it would be promulgated in June.

Kalil asked if there was a directed shortfin mako fishery. Mike P. stated pelagic longline fisheries typically catch shortfin makos as bycatch, but offshore pelagic longline management in the US is strict and helps to offset mako bycatch. Mike added there are very few federal commercial mako permits.

DISCUSSION ITEMS

Updates Concerning the Atlantic States Marine Fisheries Commission

Striped Bass Amendment 7 was approved by the ASMFC in May. Nichola Meserve reviewed the changes to the management triggers and Board processes that will position ASMFC to respond quickly to the upcoming stock assessment and the potential for lower recruitment in the future. With regards to recreational release mortality, the ASMFC adopted two new requirements—a ban on the use of gaffs and a mandate to release of fish caught on restricted terminal tackle. Both of these requirements were previously and unilaterally implemented by DMF. The Board also placed new limits on the use of conservation equivalencies in setting recreational fishing measures. Nichola concluded by stating that at present DMF and the MFAC are not required to pursue rule making for 2023, however, this may if the upcoming stock assessment demonstrates the stock is not on track to rebuild by 2029.

Nichola then discussed fluke, scup, sea bass, and bluefish. With regards to recreational fisheries management, the ASMFC and MAFMC approved the harvest control rule. Nichola opined this was an important step for improving the interannual management of recreational fisheries by providing additional flexibility. The rule was adopted on a provisional basis and will sunset after three-years. This provides an opportunity to tweak the rule before setting is as a permanent requirement. Nichola then reviewed how this new rule would affect the setting of annual recreational catch limits.

Jared Silva asked Nichola to describe how the new approach would have affected recreational black sea bass and summer flounder limits this year were it implemented. Nichola described how black sea bass would have been subject to a 10% reduction rather than a 20% reduction, and the fluke liberalization would have been more conservative.

Dan discussed the lobster resiliency addendum. The addendum proposes increases to the LCMA1 gauge and more uniform v-notch and maximum size rules across LCMA's. Maine had pursued the development of this addendum in response to anticipated declines in the GOM stock. However, dealers have expressed concerns about how these changes may impact international commerce with Canada. Dan was uncertain the

rule would move forward at this time. However, he was considering enacting more uniform v-notch and maximum sized rules in Massachusetts regardless of the outcome of the addendum. Lt. Col Moran supported this.

Bill Amaru expressed concern that more uniform rules could create problems for Cape fishermen.

Updates Concerning Federal Fisheries Management

Melanie Griffin provided a summary of the April NEFMC meeting and an overview June NEFMC agenda. In April, the NEFMC initiated Monkfish FW13 and Groundfish FW65, approved the Atlantic scallop limited access leasing scoping document, and remanded further work on potential alternatives for a Southern New England Habitat Area of Particular Concern back to the Habitat Committee. The NEFMC is scheduled to meet in-person (with a remote option) in Portland, ME from June 28-30, 2022. It is a busy agenda with a final action on 2022-2026 Research Priorities, 2023-2024 RSA priorities for monkfish and sea scallops, and the habitat framework to designate a new HAPC in SNE. The rest of the agenda is filled with Council educational opportunities, including groundfish sector operations and the state space modeling research track, as well as various FMP and other updates. The Council will also receive a few updates on relevant regional work outside of the Council process, including the May meeting of the Atlantic Large Whale Take Reduction Team, and a draft action plan to reduce Atlantic sturgeon bycatch in federal large-mesh gillnet fisheries by 2024. Finally, the Council will have an opportunity to discuss NOAA's scoping process to consider a Hudson Canyon national marine sanctuary and what factors will contribute to determination.

Bill Amaru highlighted concerns of fishermen regarding possible new cod stock delineations and how one stock not responding to conservation measures would impact other stocks' management. Melanie stated they probably wouldn't differentiate between winter and spring spawning. Bill stated the temperature will determine the redistribution of the fish and he hopes that when the assessments are done they do not base it on past findings.

Mike Pierdinock asked if DMF will be sending a comment letter to NMFS regarding the Hudson Canyons. Dan stated that DMF could submit a letter if there is an open comment period. Mike stated he will be at the NEFMC meeting next week and he hopes it will be productive.

Vineyard Wind Innovation Panel

Dan briefed the MFAC on the Vineyard Wind Innovation Panel and thanked Shelley Edmundson and Mike Pierdinock for serving on it. He stated the panel will determine how the money from Vineyard Wind mitigation is spent and distributed.

Dan then described separate funding to enhance vessel safety and navigation within wind arrays. Dan asked Mike P. to speak to a study being conducted into high-resolution radar. Mike P. stated there are safety concerns regarding wind arrays and

radar interference, but it is diminished when certain technologies are stacked. However, this requires training and capital investments.

Dan asked if the Vineyard Wind money would be beneficial for offsetting the cost of the units and training. Mike stated there is a significant cost differential between the systems and was unsure if the funds would be sufficient. Mike reiterated that radar on larger boats are often more effective because they are situated higher above the water reducing interference.

Kali Boghdan asked about the timeline of construction for the Vineyard Wind projects. Dan stated the completion of the Vineyard Wind project is likely a year away, but the cable will be laid later this year. Dan stated that Simonetta Harrison could be added to the agenda at the next MFAC meeting to provide a full update on wind energy development.

OTHER BUSINESS

Dan had additional comments for the commission and stated the Monterey Bay Sea Watch team reached out to DMF for comments regarding red-listing certain species. Dan described the outcome of the meeting with the commission and stated that the DMF Statistics Team are currently working to respond to data requests from the Sea Watch team.

Dan stated the state of RI had reached out regarding recreational tautog management, and how they had adopted a slot limit with allowance for one trophy fish, and asked if DMF would consider following suit. Additionally, the RI fisheries commission was interested to meet with the MFAC to discuss issues of mutual concern. Dan stated DMF would be willing to entertain the management scheme and would consider a meeting date when looking at the MFAC schedule for the year.

Dan stated that DMF is planning to submit the ITP to NMFS in the coming weeks. He described the work that has gone into the permit and stated that DMF is applying for a three-year permit with the ability to renew the permit. Dan welcomed any questions.

Future Meeting Schedule

Jared discussed the proposed future meeting schedule which will now be on Tuesdays. Jared stated the commission should expect an email with potential dates next week, and asked members to send along any scheduling conflicts.

Ray Kane stated the possibility of meetings switching between in-person and virtual. Both Kali Boghdan and Mike Pierdinock stated they would like to have a meeting on the vineyard. Mike Pierdinock stated he likes the flexibility of the virtual meetings, and suggested considering moving the meeting location each month rather than always having the location in Westborough.

Dan stated DMF will look into the meeting law requirements in regards to a hybrid model.

Commission Member Comments

Shelley Edmundson expressed concern over reduced whelk landings as reported to her from industry. She recommended a meeting or adding whelk management to an MFAC future agenda. Dan stated how DMF received a petition to amend the gauge increase schedule and his expectation for a hearing on this later in the year with additional MFAC discussion.

Tim Brady stated he thought Melanie's presentation regarding cod and haddock was very informative.

Bill Doyle recommended a future agenda item regarding home rule issues.

Kalil Boghdan expressed appreciation for being back in person, yet stated his preference to continue with electronic documents rather than having stacks of print-outs for the meetings.

Ray Kane thanked the commission for their attendance, and hoped it will continue with future in-person meetings. He stated he would like to reconvene all the sub-committees in the coming months. Lt. Col Moran asked for a list of the sub-committees. Jared listed off several sub-committees and stated the striped bass and law enforcement sub-committee would be the only committees reconvening in the coming months.

PUBLIC COMMENTS

There were no public comments.

ADJOURNMENT

Chairman Ray Kane requested a motion to adjourn the June MFAC business meeting. **Tim Brady made a motion to adjourn the meeting. The motion was seconded by Mike Pierdinock. The motion was approved by unanimous consent.**

MEETING DOCUMENTS

- June 16, 2022 Business Meeting Agenda
- April 7, 2022 Draft Meeting Minutes
- Recreational Fishing Limit Recommendations
- Atlantic Mackerel Public Hearing Proposal
- Prohibition on Shortfin Mako Retention
- Belding Award Nomination Memo
- 2022 Menhaden Permit Conditions

UPCOMING MEETINGS

August 18, 2022 Via Zoom	September 13, 2022 TBD	October 18, 2022 TBD
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The Commonwealth of Massachusetts

Division of Marine Fisheries

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Lt. Governor

BETHANY A. CARD
Secretary

RONALD S. AMIDON
Commissioner

DANIEL J. MCKIERNAN
Director

MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)
FROM: Daniel J. McKiernan, Director 
DATE: August 12, 2022
SUBJECT: **Electronic Tracking of Federal Permitted Lobster Fishery**

Overview

To comply with the requirements of the Atlantic States Marine Fisheries Commission's interstate management plan's most recent addendums for American Lobster and Jonah Crab—Addendum XXIX to Amendment 3 to the Interstate Fishery Management Plan (FMP) for American Lobster and Addendum IV to the Jonah Crab FMP—the Commonwealth must enact new regulations to be effective during 2023. These regulations will require electronic cellular tracking devices on all commercial fishing vessels with a state issued Coastal or Offshore Lobster Permit and federal trap allocation. To this end, I intend to hold public hearings on this issue in the fall with final enactment before the end of the year.

Background

The Addenda establish electronic device tracking requirements for federally-permitted vessels in the American lobster and Jonah crab fisheries. The goal is to collect high-resolution spatial and temporal effort data to improve stock assessments, create effective and surgical changes to regulations to protected species (i.e. right whales) that may interact with lobster trap gears, improve marine spatial planning efforts, and enhance inspections by law enforcement in federal waters.

The Addenda require federally-permitted American lobster and Jonah crab vessel permit holders with commercial trap permits to install approved electronic tracking devices to collect fishing location data beginning in 2023. This program will be based on the success of a pilot study conducted by staff of DMF, ME DMR and RI DEM to test prototypes to determine their efficacy and utility.

The data collected through these electronic tracking devices will greatly improve the resolution of the stock assessment and refine the estimate of annual exploitation and abundance for American lobster by providing size composition data at a finer resolution than what is currently available. Also, the models used to assess the risk of entanglement risk will be enhanced with improved accuracy of fishing locations, which could have an impact on federal risk reduction requirements for the fishery.

Due to a lack of vessel monitoring systems and inconsistent reporting requirements among jurisdictions, the lobster fishery's "footprint" is among the least documented among its counterparts (e.g., scallops, multispecies groundfish, and surf clams). With a better delineation of the spatial footprint of the U.S. lobster and Jonah crab fisheries, managers will be better positioned to minimize and mitigate the impacts of other ocean uses such as aquaculture, marine protected areas, and offshore energy development on the fisheries. Furthermore, vessel tracking data will enhance the efficiency and efficacy of offshore law enforcement efforts.

The Addenda establish minimum criteria that must be met by tracking devices and vendors to be approved for use in the fishery. These include a data reporting rate (at least one ping per minute) and other technical specifications. Coupled with a new electronic Vessel Trip Report (VTR) federal reporting requirement, data on landings, effort and fishing location will be more comprehensive.

Thanks to congressional funding provided through ASMFC, states will be providing financial support (i.e. grants) to permit holders to pay for these devices for the first few years. DMF is in the process of securing the funds through the Commission and we intend to commence the program in the late summer/fall of 2022 with a goal of installing trackers in 2023. To execute the program, we anticipate the need to hire a full-time employee to assist the fishermen with securing funds, trouble-shooting installation and operations and managing the data.

ASMFC will be posting a Request For Response (RFP) to get cost estimates of the units from various companies. It is DMF's intent to determine a cost estimate for the purchase of the hardware and a multi-year data service plan and provide financial assistance to eligible permit holders. We estimate that about 300 Massachusetts permit holders who hold federal permits will be required to install the trackers, and all those permit holders will be eligible for the financial assistance.



The Commonwealth of Massachusetts

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RONALD S. AMIDON
Commissioner

DANIEL J. MCKIERNAN
Director

MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)
FROM: Daniel J. McKiernan, Director 
DATE: August 12, 2022
SUBJECT: **Petition to Adjust Schedule to Increase Whelk Gauge Width**

Overview

I plan to take to public hearing a petition to adjust the schedule to increase the whelk gauge size so that they occur every third-year rather than every other year. I shared this petition with you earlier this spring and indicated my intent to bring it out to public hearing this fall for a potential rule change prior to April 15, 2023—the start of next year’s conch pot fishery and the effective date of the next pending gauge increase.

Background

For more than a decade, DMF has been concerned about the status of the state’s whelk resource, particularly channeled whelk. These concerns were driven by a rapid escalation of catch and effort in the pot fishery during the early 2000s and 2010s (likely in response to declining inshore lobster resource south and west of Cape Cod); life-history traits making the resource prone to becoming overfished; and fishery dependent data (e.g., reduced catch per unit effort and truncation of catch around minimum size) indicating localized depletion was occurring.

In response, DMF initiated two size-at-maturity studies (2011 and 2015). The studies found that in Nantucket Sound—the principal harvest area—female whelks began to reach sexual maturity at a shell width of approximately 3 5/8” and reached 50% maturity at a shell width of about 3 7/8”. Size-at-maturity data was similar, albeit with animals reaching maturity slightly smaller shell width, in other important harvest areas (i.e., Buzzards Bay and Vineyard Sound). Moreover, the existing minimum size management program did not protect any sexually mature female whelks. Then in 2019, DMF completed a stock assessment for channeled whelks in Nantucket Sound, which found the whelk resource to be overfished with overfishing occurring.

As a result of this scientific work, DMF and the MFAC implemented changes to the state’s minimum size management program. Most recently, in 2019, new regulations were implemented to increase the whelk gauge width by 1/8” every other year until 2029 resulting in a terminal gauge size of 3 5/8” (Table 1). The 3 5/8” terminal gauge width corresponds to a 3 7/8” shell width, the size that DMF’s study found 50% of female whelks to be sexually mature.

As catch had truncated around the minimum size and these animals are slow growing, large increases to the minimum size would have severe economic impacts on this important inshore fishery. Therefore, any immediate increases to bring size-at-harvest to a level where it would protect any female spawning stock would produce substantial economic impacts. Accordingly, DMF opted for a gradual approach to increasing the size-at-harvest and recommended a ten-year schedule with biennial 1/8" increases to allow for a recoupment of some harvest between gauge increases.

Table 1. Schedule for Whelk Gauge Increases, Corresponding Shell Widths at 50% Retention, and Percentage of Mature Female Whelks at Shell						
	2019	2021	2023	2025	2027	2029
Chute Gauge Width	3"	3 1/8"	3 1/4"	3 3/8"	3 1/2"	3 5/8"
Shell Width at 50% Legal	3 3/16"	3 5/16"	3 7/16"	3 5/8"	3 3/4"	3 7/8"
Percent Female Size at Maturity	0%	0%	0%	5%	20%	50%

This past spring, DMF received a petition from the Massachusetts Conch Association, who represent members of the inshore conch pot fishery for channeled whelks and wholesale seafood dealers who process whelks. The petitioners argue the fishery is experiencing severe declines in landings and participation that coincide with the current gauge width schedule and are concerned that the continued decay of this fishery may result in the loss of shoreside infrastructure necessary to support it moving forward. To offset this economic impact, the petitioners seek to add an additional year between gauge width increases (Table 2). They also argue this change would provide for additional time to study various environmental and biological factors that may be impacting the whelk resource and improve fishery management.

Table 2. Comparison of Current and Proposed Gauge Schedules and Percent of Mature Females at Gauge Size					
Current Schedule	2021 – 2022 3 1/8"	2023 – 2024 3 1/4"	2025 – 2026 3 3/8"	2027-2028 3 1/2"	2029 3 5/8"
Proposed Schedule	2021 – 2023 3 1/8"	2024 – 2026 3 1/4"	2027 – 2029 3 3/8"	2030-2032 3 1/2"	2033 3 5/8"
Percent Size at Maturity	0%	0%	5%	20%	50%

Ultimately, DMF's whelk gauge size management approach was designed to be gradual to offset potential economic impacts. Consistent with that, I do not object to taking this petition out to public hearing for public comments. The petitioned change will delay milestones for protected female spawning stock. However, I think it is appropriate to consider the impacts of such delays against the concerns about the long-term viability of the fishery and claims that shoreside infrastructure is at risk.



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DANIEL J. MCKIERNAN
Director

MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)
FROM: Daniel J. McKiernan, Director 
DATE: August 12, 2022
SUBJECT: **Protected Species Regulatory Amendments and Clarifications**

Over the course of 2021 and 2022, DMF enacted a series of regulatory changes affecting fixed gear fisheries and their interactions with protected species. These changes were proposed to reduce the risk of entanglement posed by vertical buoy lines to protected species, particularly the endangered right whale, and to better identify Massachusetts gear should an entanglement occur. These changes were components of the agency's Habitat Conservation Plan for its Incidental Take Permit application for the Massachusetts Mixed Species Trap Fishery.

With these regulations now having been in place for one season, and NOAA Fisheries listing Massachusetts trap fisheries separately as its own Mixed Species Trap Fishery on the 2022 List of Fisheries (under the authority of the marine Mammal Protection Act), there are several minor modifications that are worthwhile considering for 2023. Accordingly, I plan to take a series of regulatory amendments and housekeeping clarifications to public hearing. In the sections below, I address the more substantive proposed amendments and summarize the housekeeping changes.

Weak Links on Trap Gear

Historically, the Atlantic Large Whale Take Reduction Plan (ALWTRP) and DMF regulations have required trap fishermen fish a weak link where the buoy meets the buoy line. The weak link is a mechanism designed to separate the buoy from the buoy line when exposed to 600 pounds of tension. Should an entanglement occur, the line would then break free from the buoy potentially disentangling the whale.

In 2021, DMF began to require state-waters commercial trap fishermen to fish weak rope (1,700-pound breaking strength) or rig their buoy lines with approved weak contrivances every 60°. For 2022, the ALWTRP was amended to adopt similar weak rope and weak contrivance rules for the lobster and crab trap fishery occurring in adjacent federal waters and state waters jurisdictions. However, when the new federal rules were implemented, the weak link requirement was rescinded from the ALWTRP.

This was done because of a lack of evidence in the entanglement record that these links were working as intended and that entanglements were occurring in a manner that the weak link could

be effective. Buoy line entanglements almost always occur when a portion of the buoy line wraps around the whale's body, appendage, or becomes lodged in the baleen. The terminus of the buoy line where the buoy is attached with the weak link is not typically involved in observed entanglements.

This sequencing of rule-making resulted in Massachusetts maintaining the remanent weak link requirement for 2022. For the start of the 2023 season, I want to eliminate this requirement for the commercial Massachusetts Mixed Species Trap Fishery. Weak link requirements will remain in effect for recreational lobster and edible crab fishery, as weak rope and contrivances are not required for this sector. Additionally, the weak link rules for the gillnet fishery will remain status quo, but may be amended in response to potential future changes to the management of gillnets under the ALWTRP.

Recreational Lobster and Edible Crab Season

In 2021, DMF implemented a November 1 – May 15 closed season for recreational lobster and crab trap gear. Unlike the commercial trap gear (and gillnet gear) closure, the regulation does not delineate the Director's authority to extend or rescind the recreational closure in response to the presence or absence of whales.

This potential deficiency came to light this past season, as DMF was analyzing the potential need to extend fixed gear closures past May 15 in the event right whales remain aggregated in state waters on or after that date. If DMF had to extend the commercial fixed gear closures in 2022 past May 15, it would not have been able to apply the same extension to the recreational lobster fishery without filing an emergency regulation. Accordingly, I am proposing to amend the regulations to have the recreational closure subject to the same extension and rescission criteria as the other regulated fixed gears. This will ensure that future actions to adjust the start of the open season apply uniformly to all affected fixed gear fisheries.

Buoy Line Definition and Frequency of Weak Contrivances

At present, DMF defines the term "buoy line" as the "line that extends through the water column from the buoy at the surface to a single trap on the ocean floor or to a groundline that connects multiple traps on a trawl and extends no more than 12' from the first trap on the trawl." This was done to ensure buoy line modification rules did not apply to that small segment of groundline leading off the ends of a trawl. For similar reasons, DMF also defined a 1,700 pound buoy line as having "one 1,700 pound contrivance per every 60 feet of buoy line in the top 75% of the buoy line."

Over the course of 2022, DMF has worked with MEP to audit numerous buoy lines for compliance with the weak rope rule. This redundancy has complicated how to inspect and enforce this buoy line rule, as one must account for what part of the buoy line extending from the first gangion in the groundline and then determine the part of the buoy line subject to the weak contrivance rule. Based on comments from staff and MEP, I am proposing to simplify how to address this convention and prefer to adopt a standard definition for buoy line that would accommodate it and eliminate the redundant language in the weak contrivance rule.

Housekeeping

There are also several housekeeping changes that should be proposed. This includes: (1) moving the buoy line marking rules for gillnets and traps from the gear section at 322 CMR 4.00 to the protected species section at 322 CMR 12.00 and eliminating all outdated requirements; (2) moving the recreational trap gear closure from regulation of catch section at 322 CMR 6.00 to the protected species section at 322 CMR 12.00; and (3) reorganizing the sections of the protected species regulations at 322 CMR 12.00 to enhance clarity and improve compliance.



The Commonwealth of Massachusetts

Division of Marine Fisheries

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Secretary

RONALD S. AMIDON
Commissioner

DANIEL J. MCKIERNAN
Director

MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)

FROM: Daniel J. McKiernan, Director

DATE: August 12, 2022

SUBJECT: **Mobile Gear Area 1A Open Season Extension**

Overview

I plan to take to public hearing a proposal to extend the season whereby vessels can fish within mobile gear Area 1A – Gloucester/Rockport (Figure 1). Current regulations open this area to mobile gear fishing from February 1 – March 31, whereas the proposal would keep the area open through May 15. Given overarching groundfish mortality closures, this extension would principally accommodate sea scallop dredge fishing, should there be an abundant set in the area.

Background

Dating back to 1931, mobile gear fishing has been prohibited in nearshore state waters (approximately the 3-mile line) from Winthrop to the New Hampshire maritime border. This closure was first implemented by the legislature to prevent gear conflicts between trap fishermen and mobile gear fishermen, effectively allocating the inshore waters to the trap fishery. Then in the 1960s and 1970s, when regulatory authority was given over to DMF and the MFAC, the closure was maintained. However, throughout the 1970s, several exemptions were carved out to accommodate mobile gear fishing at times and places where lobster fishing activity was more limited. This includes the 1978 opening of Area 1A from February 1 – March 31.

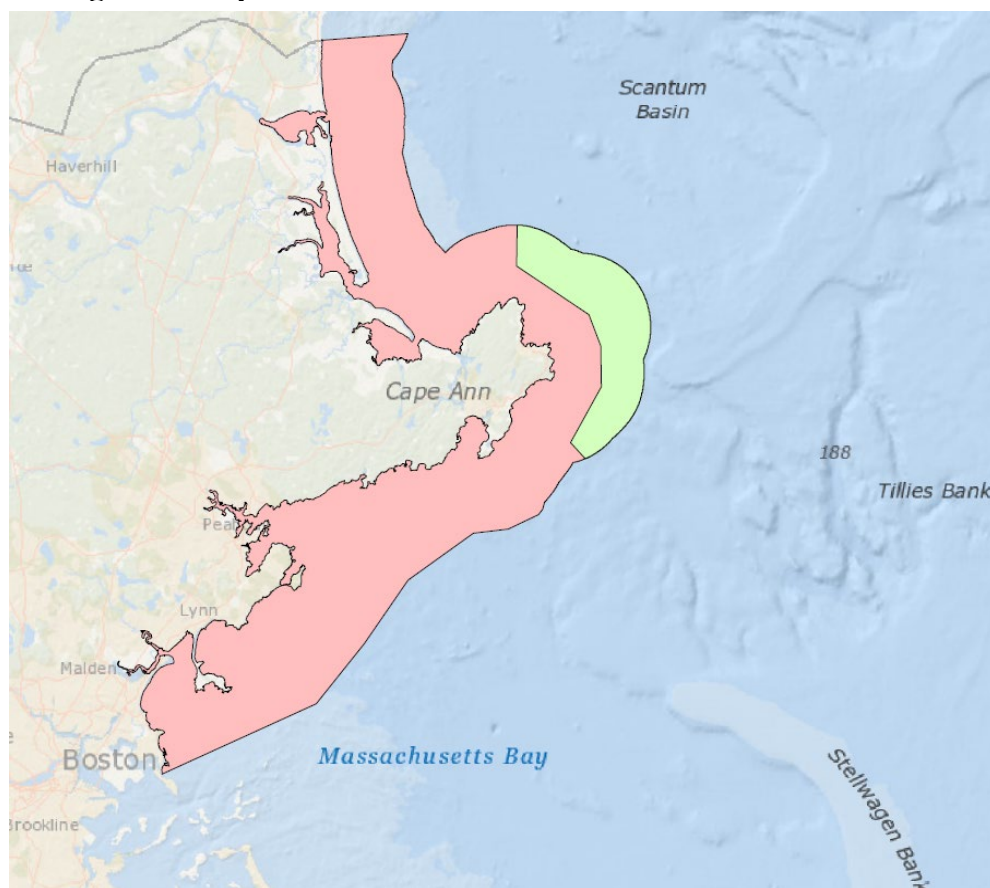
As of 2021, DMF and the MFAC closed trap gear fishing in state waters off Cape Ann from February 1 – May 15. While DMF may rescind the closure before May 15, should seasonal aggregations of endangered right whales diminish, it typically takes several weeks for trap densities to increase. As such, there is limited opportunity for gear conflicts should mobile gear fishing be allowed to continue in Area 1A through April and into mid-May.

Based on anecdotal reports from industry, there have been several years (including 2022) when there were commercially viable sets of sea scallops within Area 1A. The March 31 mobile gear closure date restricts scallop dredge gear access to such areas of exploitable scallop biomass. This particularly impacts state-waters only boats, who cannot move into adjacent federal waters and continue to fish for sea scallops.

For these reasons, I am moving forward a proposal to amend the Area 1A open season for mobile gear from February 1 – March 31 to February 1 – May 15. This should provide mobile gear fishermen, particularly those who may only fish for sea scallops in state waters, with additional opportunities to pursue the resource should it be commercially viable. Additionally, given the timing of the state’s protected species fixed gear closures, I do not expect this activity to produce gear conflicts with the lobster fleet. It is notable that sizeable scallop sets could draw in effort from federal scallop permit holders who also hold a “Coastal Access Permit—North Shore”, which authorizes the towing of mobile gear in this exempted area of state waters.

I do not anticipate this action will result in a substantial increase to state waters groundfish fishing effort. There are only a handful of draggers who actively fish in state waters for groundfish. Additionally, there are overlapping groundfish mortality closures that restrict trawl gear in the area during mid-to-late April and throughout all of May. This includes the April 15 – April 30 groundfish closure in all state waters north of Plymouth and the May 1 – May 31 groundfish closure in all state waters north of Boston.

Figure 1. Map of North Shore Mobile Gear Closure and Area 1A



Year-Round North Shore Mobile Gear Closure 

Area 1A 



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DANIEL J. MCKIERNAN
Director

MEMORANDUM

TO: Marine Fisheries Advisory Commission (MFAC)

FROM: Daniel J. McKiernan, Director

DATE: August 15, 2022

SUBJECT: **Amended Recreational Tautog Trophy Fish**

Overview

I plan to take to public hearing a proposal to establish a recreational slot limit for tautog with a trophy fish allowance. This would maintain the current 16" minimum size and establish that an angler may only allowed to retain one tautog per day that exceeds 21" total length.

Background

Tautog is managed by the Atlantic States Marine Fisheries Commission. Given the life history of the animal, the FMP manages the resource based on discrete geo-political regions, with Massachusetts and Rhode Island comprising a single management region (MARI). Accordingly, Rhode Island DEM and Massachusetts DMF work cooperatively to develop and implement compatible management programs across the state jurisdictions. Aiming to achieve a single set of rules across jurisdictions enhances compliance and enforcement and optimizes conservation.

Last year, Rhode Island DEM received a petition from its recreational fishery to adopt a maximum size for the recreational harvest of tautog but allow anglers to retain one trophy fish (>21") per angler per day. For 2022, Rhode Island established a new regulation adopting this trophy fish rule.

My colleagues in Rhode Island consulted me on their implementation of this slot limit and trophy fish allowance. While the timing last year did not allow for DMF to consider a complementary measure for this year, I am interested in considering it now for next year. I view the proposal as having two potential benefits to Massachusetts. First, it will prevent anglers from entering Massachusetts jurisdiction to retain larger fish that are non-compliant with Rhode Island regulations. Second, it will provide some additional conservation by requiring larger mature fish be released alive, while still allowing anglers to retain one large fish should they catch multiples.



Atlantic States Marine Fisheries Commission

2022 Summer Meeting Summary

Sustainable and Cooperative Management of Atlantic Coastal Fisheries

2022 Summer Meeting
August 2-4, 2022

For more information, please
contact Toni Kerns, ISFMP,
Tina Berger, Communications
or the identified individual at
703.842.0740

Meeting Summaries, Press Releases and Motions

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ATLANTIC HERRING MANAGEMENT BOARD (AUGUST 2, 2022)

Meeting Summary

The Atlantic Herring Management Board met to review the 2022 Management Track Stock Assessment and Peer Review Report; receive an update on the portside sampling program for Atlantic herring; and receive an update from the New England Fishery Management Council (NEFMC).

The Board received a presentation of the 2022 Management Track Stock Assessment for Atlantic herring conducted by NOAA's Northeast Fisheries Science Center (NEFSC). The 2022 assessment found the stock to be overfished but not experiencing overfishing. The methods for calculating the biological reference points and projections were updated to (1) account for mortality from the fixed gear fishery and (2) to use a subset of the recruitment time series from 1992-2019 based on analysis suggesting a shift in environmental conditions since 1992 affecting recruitment. The NEFMC's Scientific and Statistical Committee is meeting on August 4, 2022 to review the assessment results and develop recommendations for 2023-2025 fishery specifications, which will be considered at the NEFMC September meeting.

The Board received an update on the Maine Department of Marine Resources' (DMR) portside sampling program, which includes Atlantic herring biological sampling, spawning sampling, and bycatch sampling (e.g., for river herring), as well as additional sampling for other species. For Atlantic herring biological and bycatch sampling, Maine DMR collects and processes samples along the coast from New Jersey up to the Canadian border. The data products from the program directly inform Atlantic herring stock assessments and management. Funding from the Atlantic Coastal Cooperative Statistics Program, which has supported the program's data collection, will expire at the end of 2023. As a result, DMR would be unable to collect biological samples out of state and unable to conduct portside bycatch sampling. To address this, the Board identified two potential approaches: (1) states can collect samples themselves and send to Maine DMR for processing, or (2) secure alternative funding source(s) for DMR data collection. Commission staff will coordinate discussions among state agencies over the next several months and will report back to the Board at a future meeting.

The Board received an update from the NEFMC on 2022 Council priorities for Atlantic herring and the June 2022 NEFMC meeting. In July 2022, the final rule was published for Framework 9 to the federal Atlantic Herring Fishery Management Plan, which establishes a herring rebuilding plan based on the Council's biomass-based acceptable biological catch control rule, and adjusts accountability measure catch threshold triggers. At its June 2022 meeting, the NEFMC agreed to pause for the summer further work on Framework 7, which considers protection for spawning adults on George's Bank. The NEFMC also discussed the current status of Industry-Funded Monitoring (IFM). The NEFMC took no action related to IFM considering IFM for Atlantic herring will be on hold after April 2023 without federal funding, and considering there is a required IFM program review in 2023. Details and materials from the June Herring Committee meeting are available [here](#), and from the June NEFMC meeting are available [here](#).

For more information, please contact Emilie Franke, Fishery Management Plan Coordinator, at EFranke@asmfc.org or 703.842.0740.

Motions

No motions made.

AMERICAN LOBSTER MANAGEMENT BOARD (AUGUST 2, 2022)

Meeting Summary

The American Lobster Management Board met to consider a number of items: (1) an update on a recent Court ruling in the Center for Biological Diversity versus Secretary Raimondo and the Maine Lobstermen's Association case; (2) implications of proposed measures in Draft Addendum XXVII on increasing protection of spawning stock biomass of the Gulf of Maine/Georges Bank stock; (3) updates from NOAA Fisheries on actions related to North Atlantic right whales; (4) an update on federal rulemaking to implement effort control measures and harvester reporting; (5) nominations for Advisory Panel membership; and (6) election of a Vice Chair.

NOAA Fisheries provided an overview of the recent Judge James Boasberg Ruling in the US District Court for the District of Columbia in a case brought by the Center for Biological Diversity and several other environmental organizations versus Secretary Raimondo and the Maine Lobstermen's Association. On July 8, the Court held that aspects of the 2021 Biological Opinion and the 2021 final rule violated federal law. It concluded that that NOAA Fisheries violated the Endangered Species Act by failing to satisfy the Marine Mammal Protection Act's (MMPA) "negligible impact" requirement before setting the authorized level of lethal take in its incidental take statement, and that NOAA Fisheries breached the time requirements mandated by the MMPA in the 2021 final rule. Additional briefing hearings to determine the action(s) the agency must take moving forward will be held in the next several months and a final decision from the Court will follow.

The Board discussed Draft Addendum XXVII on increasing protection of spawning stock biomass of the Gulf of Maine/Georges Bank stock. In January 2022, the Board approved the Draft Addendum for public comment; however, the ISFMP Policy Board postponed public hearings to allow additional time for the Board to consider upcoming information on stock condition and to better understand current or new right whale rules that could benefit the lobster stock, and to give states the opportunity to safely hold in-person scoping meetings with their lobster industry ahead of Commission public hearings. Since January, Board members have raised concerns that the proposed management measures in the Draft Addendum could have implications for international trade. Specifically, the Magnuson-Stevens Act prohibits the import and sale of lobsters smaller than the Commission's lowest minimum possession limit; thus, if the minimum gauge sizes proposed in the Draft Addendum were implemented as possession limits, it would impose additional limitations on lobster imports. The Board agreed to delay consideration of public hearings until the Annual Meeting so that the Plan Development Team can investigate this issue and propose changes to the Draft Addendum to mitigate potential impacts.

NOAA Fisheries provided two presentations on recent actions related to North Atlantic right whale conservation. First, Dr. Caroline Good provided a summary of the recently published proposed rule to modify the North Atlantic right whale vessel speed rule to further reduce the likelihood of lethal vessel collisions. The changes would expand the spatial boundaries and timing of seasonal speed zones along the U.S. East Coast. The proposed rule would also require the mandatory speed restrictions of 10 knots or less for most vessels 35–65 feet in length. Additionally, the changes to the speed rule include the creation of a mandatory dynamic speed zone program establishing temporary 10-knot transit zones when right whales are detected outside designated Seasonal Speed Zones. NOAA is seeking comment on

the proposed rule through September 30, 2022. Second, Dr. Jon Hare presented NOAA's Draft *Ropeless Roadmap*, which was released last week. The document describes the current state of on-demand fishing and outlines a roadmap for this technology to be adopted in U.S. East Coast commercial fisheries in order to reduce large whale entanglements. On-demand fishing gear removes static vertical buoy lines from the water column by allowing fishermen to use a remote retrieval system to trigger the release of a buoy line or other mechanism to haul gear to the surface when needed. The *Roadmap* discusses next steps for future research, engagement, and policy change that would enable the continued development of on-demand fishing. The Board requested the Commission submit comments on both the proposed changes to the speed rule and the Draft *Ropeless Roadmap*.

NOAA Fisheries provided an update on another proposed rule published on July 11, 2022 that aims to align federal regulations for the lobster fishery with the intent of Amendment 3 to the Commission's Interstate Fishery Management Plan for American Lobster and the Atlantic Coastal Fisheries Cooperative Management Act. Based on the Commission's recommendations in Addenda XXI and XXII to Amendment 3, NOAA Fisheries is proposing to establish individual and aggregate trap caps in Lobster Conservation Management Areas (LCMA) 2 and 3, and is proposing to institute mandatory coastwide electronic harvester reporting for all federal lobster vessels as recommended in Addendum XXVI. The proposed ownership caps and trap cap reduction measures are intended to reduce fishing exploitation and latent effort in the trap fishery by scaling the fishery to the size of the Southern New England lobster stock, and the proposed harvester reporting requirement is intended to improve the spatial resolution of harvester data, and improve and expand the collection of fishery effort data. The Board supported implementation of the harvester reporting requirements as soon as possible, but requested that the rule be split to allow additional time to comment on the proposed trap caps in LCMA 2 and 3.

The Board approved three nominations to the American Lobster Advisory Panel: Eric Lorentzen, a commercial harvester, and Todd Alger, a recreational diver from Massachusetts, and Chris Welch, a commercial trap harvester from Maine. The Board also elected Patrick Keliher of Maine as Vice Chair. For more information, please contact Caitlin Starks, Senior Fishery Management Plan Coordinator, at cstarks@asmfc.org or 703.842.0740.

Motions

Move to postpone consideration of public hearings on Draft Addendum XXVII until the Annual Meeting to allow the PDT time to address challenges raised by existing MSA language regarding possession of lobsters smaller than the lowest minimum size limit specified in the American Lobster FMP. This could include language which differentiates harvest vs. possession limits to reduce impacts on dealers and processors. The LEC should also review new language that may be suggested by the PDT.

Motion made by Mr. Keliher and seconded by Ms. Patterson. Motion passes (11 in favor).

Move to approve Advisory Panel nominations for Eric Lorentzen and Todd Alger from Massachusetts, and Chris Welch from Maine.

Motion made by Mr. McKiernan and seconded by Mr. Keliher. Motion stands approved.

Move to elect Commissioner Pat Keliher of Maine as Vice-Chair of the American Lobster Management Board.

Motion made by Mr. McKiernan and seconded by Mr. Hasbrouck. Nomination stands approved.

ATLANTIC STRIPED BASS MANAGEMENT BOARD (AUGUST 2, 2022)

Meeting Summary

The Atlantic Striped Bass Management Board met to review the draft Fishery Management Plan (FMP) Review and state compliance for fishing year 2021, provide guidance to the Technical Committee (TC) on responding to the 2022 assessment if a reduction is needed to achieve stock rebuilding, and consider next steps for Draft Addendum I to Amendment 7 regarding commercial quota transfers.

The Board considered the FMP Review for the 2021 fishing year. In 2021, total striped bass removals were estimated at 5.1 million fish, which is about the same as removals in 2020. Commercial harvest accounted for 12% of total striped bass removals in 2021, commercial dead discards accounted for less than 2%, recreational harvest accounted for 36%, and recreational release mortality accounted for 50%. Based on annual state compliance reports, the Plan Review Team (PRT) determined that all states in 2021 implemented a management and monitoring program consistent with the provisions of the FMP, with three inconsistencies. The Board did not raise any discussion or action regarding those inconsistencies, and approved the FMP Review and state compliance reports for fishing year 2021.

The Board received a TC report requesting Board guidance on responding to the 2022 stock assessment if a reduction is needed to achieve stock rebuilding. The 2022 stock assessment update is currently in progress with results expected in October 2022. If the 2022 assessment indicates there is a less than 50% chance of rebuilding the stock by 2029 and at least a 5% reduction in removals is needed to achieve rebuilding, then the Board may adjust management measures via Board action. Thus, the TC will provide the Board with a set of potential options to achieve the reduction, if needed, for consideration at the November 2022 Board meeting alongside the assessment results. The Board agreed that if a reduction is needed, the Board vote to select final measures would occur at a special Atlantic Striped Bass Board meeting via webinar to be scheduled for December 2022.

Regarding existing Addendum VI conservation equivalency (CE) programs, the Board supported the TC's recommendation to use the current set of 2021 management measures and resulting level of 2021 removals as the starting point for calculating the potential reduction. The TC would develop a new set of management measures that would achieve the required reduction relative to the 2021 commercial quotas and 2021 recreational size limits/bag limits/seasons.

The Board requested the TC develop options for two methods of splitting the reduction between the commercial and recreational sectors: (1) an equal percent reduction for both sectors and (2) a different percent reduction for each sector weighted based on proportion of total removals. To achieve the reduction in the commercial sector, the TC will develop options for commercial quota reductions. If time permits before the next Board meeting, the TC will conduct an exploratory analysis of how setting a consistent size or slot limit across both the commercial and recreational fisheries could affect the rebuilding timeline. To achieve the reduction in the recreational sector, the Board requested options for the ocean that would either shrink or shift the current ocean slot limit. Additionally, the Board noted seasonal closure options could be considered if adjusting the slot limit does not achieve the required reduction; any ocean seasonal closure options would be no-harvest closures with flexibility for states to select closure dates. For Chesapeake Bay recreational options, the Board requested options for a Baywide slot limit or maximum size limit (e.g., 36" maximum), as well as options for seasonal closures, including Bay state-specific seasonal closure options.

The Board considered next steps for Draft Addendum I to Amendment 7 (formerly Draft Addendum VII to Amendment 6) to consider allowing voluntary commercial quota transfers in the ocean region between jurisdictions that have commercial quota. The Board initiated the draft addendum in August 2021 as a way to provide immediate relief for states instead of pursuing a full quota allocation discussion. The Board discussed concerns about quota transfers raised by the Plan Development Team (PDT), and the Board requested the PDT conduct additional analysis to address those concerns, including the concern about transferring quota between states with different commercial size limits. Additionally, the Board added provisions to the range of options to consider allowing the Board to set certain parameters for quota transfers each year. The PDT will revise the draft addendum per the Board's guidance, and the Board will consider a revised Draft Addendum I document for public comment at either the 2022 Annual Meeting or the 2023 Winter Meeting.

For more information, please contact Emilie Franke, Fishery Management Plan Coordinator, at EFranke@asmfc.org or 703.842.0740.

Motions

Move to approve the Atlantic Striped Bass FMP Review and state compliance for the 2021 fishing year.

Motion made by Mr. Luisi and seconded by Mr. Hasbrouck. Motion carries.

Motion approved by consent

Move to add the following provisions to Draft Addendum I to Amendment 7 under Option B

Commercial quota transfer provision of the coastal commercial quota:

- **The Board will decide by their final meeting of the year, based on the information the Board has available on the status of the striped bass stock and performance of the commercial fishery, whether to allow commercial quota transfers in the next year.**
- **If the Board approves commercial quota transfers, the Board may decide to limit the transferable amount of quota to a set poundage or a set percentage of the total commercial quota.**
- **The Board may also choose to specify the following criteria:**
 - **The eligibility of a state to receive a transfer based on percentage of that state's quota landed (e.g. state may not request quota until it has landed 90% of its annual quota)**
 - **The allocation of allowed transferable quota among seasonal fisheries (e.g. 50% reserved for states that have spring fisheries, 50% reserved for states with summer or fall fisheries)**

Motion made by Mr. Clark and seconded by Mr. Reid. Motion carries (15 in favor, 1 abstention).

CAPTAIN DAVID H. HART AWARD & ANNUAL AWARDS OF EXCELLENCE (AUGUST 2, 2022)

Press Releases

ASMFC Presents Steven G. Bowman Prestigious Captain David H. Hart Award

Arlington, VA – The Atlantic States Marine Fisheries Commission (Commission) presented Steven G. Bowman, former Commissioner for the Virginia Marine Resources Commission (VMRC), with its highest annual honor, the Captain David H. Hart Award, at the Commission's 2022 Summer Meeting. The Commission instituted the Hart Award in 1991 to recognize individuals who have made outstanding efforts to improve Atlantic coast marine fisheries. The Hart Award is named for one of the Commission's

longest serving members who dedicated himself to the advancement and protection of marine fishery resources, Captain David H. Hart, from the State of New Jersey.



From left: ASMFC Chair Spud Woodward, Hart Award Recipient Steven Bowman, ASMFC Awards Committee Chair Jim Gilmore and ASMFC Executive Director Bob Beal

Mr. Bowman began his marine fisheries career at VMRC in 1992 as Deputy Chief of the Law Enforcement Division, was promoted to Chief of Law Enforcement in 1996, and in 2006 he was appointed Commissioner of Marine Resources by then Governor Timothy Kaine. He served as Commissioner under two subsequent governors. Throughout his long history with the Commission, Mr. Bowman served as a member of the Law Enforcement Committee (early in his career) and as Virginia's Administrative Commissioner (latter in his career) on the Commission's Executive Committee and Interstate Fisheries Management Program Policy Board, along with several species management boards.

As Virginia's Administrative Commissioner to the Commission, Mr. Bowman gained a reputation for his ability to successfully bring divergent viewpoints of stakeholders to a reasonable and agreeable compromise. When Virginia faced a non-compliance finding under the Atlantic Coastal Fisheries Cooperative Management Act for exceeding the Atlantic menhaden Chesapeake Bay reduction fishery cap in 2019, Mr. Bowman was instrumental in transferring menhaden management authority from the Virginia General Assembly to the VMRC. At that time, Atlantic menhaden was the only marine species managed by the General Assembly. Mr. Bowman worked deftly with political parties, recreational anglers, conservationists, and the reduction industry to navigate a non-compliance finding. Once the management authority was transferred to VMRC, Mr. Bowman ensured that regulations were quickly prepared and approved to avoid a possible moratorium on menhaden fishing in Virginia waters.

This monumental accomplishment is a microcosm of Mr. Bowman's skillset. It demonstrated the trust Mr. Bowman had from all corners of the marine fisheries management world: industry, anglers, conservationists, state and federal politicians, and his fellow Commissioners. Mr. Bowman's efforts ultimately resulted in the protection of the Chesapeake Bay as a critical nursery area for many iconic species such as striped bass, bluefish, and summer flounder which will provide coastwide benefits for years to come.

PR22-20

ASMFC Presents Annual Awards of Excellence for 2022

Arlington, VA - The Atlantic States Marine Fisheries Commission presented its Annual Awards of Excellence to an esteemed group of fishery managers, scientists, and law enforcement officers for their outstanding contributions to fisheries management, science, and law enforcement along the Atlantic coast. Specifically, the 2022 award recipients were Eric Reid and Peter Burns for management and policy contributions; Dr. Conor McManus, Jeff Kipp, Dr. Burton Shank, Dr. Bryan Nuse, Dr. Anna Tucker, and Caitlin Starks for technical and scientific contributions; and the New Jersey Department of Environmental Protection, Bureau of Law Enforcement for law enforcement contributions.

“Every year a great many people contribute to the success of fisheries management along the Atlantic coast. The Commission’s Annual Awards of Excellence recognize outstanding efforts by professionals who have made a difference in the way we manage and conserve our fisheries,” said ASMFC Chair Spud Woodward of Georgia. “I am humbled by the breadth and extent of accomplishments of the recipients and am grateful for their dedication to Atlantic coast fisheries.”

Management and Policy Contributions

Eric Reid, Chair of the New England Fishery Management Council and Proxy for ASMFC Legislative Commissioner Senator Susan Sosnowski

For nearly a decade, Eric Reid has devoted countless hours to the fisheries management process at both the Commission and New England Fishery Management Council (NEFMC), and increasingly at the Mid-Atlantic Fishery Management Council. Currently Chair of the NEFMC and longstanding proxy for Rhode Island’s Legislative Commissioner to the ASMFC, Senator Susan Sosnowski, Mr. Reid has been a fervent advocate for the New England commercial fishing industry, consistently bringing the industry’s perspective to actions taken by the Commission and Councils. His ability to be objective and seek creative solutions has often allowed for compromise amongst differing viewpoints. Mr. Reid has been an integral and important voice in numerous high-level actions and discussions including Northeast Canyons and Seamounts Marine National Monument and offshore wind development. His expertise in the commercial fishing industry as well as the fisheries management system allows him to offer unique insights and facilitate management progress on a wide range of important topics. Mr. Reid has played a positive and impactful role in the fisheries management process as a result of his full engagement in the issues before him and his thoughtful consideration of the resource, as well as the economic impacts of proposed actions on the fishing industry.

Peter Burns, NOAA Fisheries

A valued federal partner to the Commission and its member states for over 15 years, Peter Burns has served as NOAA Fisheries’ lead on numerous Commission management boards and sections, including those for American lobster, northern shrimp, bluefish, spiny dogfish, and tautog, providing sound advice and guidance on the management of these species. He also has made tremendous contributions to federal lobster management, coordinating and leading the Lobster Trap Tag Program, which constituted a fundamental shift in interstate lobster management. His efforts ensured that state and federal trap allocations were aligned and future transfers were correctly implemented and tracked. Mr. Burns fostered productive relationships with the states and industry members on measures put forward by the industry at the Large Whale Take Reduction Team. This action helped to build trust and buy-in to Commission/Take Reduction Plan processes. He also attempted to negotiate alternative measures to the Area 4 (South of Long Island) seasonal closure, coordinating a meeting with industry members and

bordering states, putting forward numerous solutions for equivalent measures in an attempt to eliminate the closure. While ultimately unsuccessful, these efforts highlight his commitment to the Commission process as well as his commitment to collaboration and innovation.

Scientific and Technical Contributions

Dr. Conor McManus, Jeff Kipp, and Dr. Burton Shank

Based on their significant contributions to the 2020 Benchmark Stock Assessment for American Lobster, Dr. Conor McManus, Jeff Kipp, and Dr. Burton Shank are being recognized for their exceptional work and initiative on the American Lobster Stock Assessment Subcommittee (SAS). As lead modelers for the assessment, Dr. McManus, Mr. Kipp, and Dr. Shank contributed improved and novel analyses to more effectively characterize stock status for Southern New England and the Gulf of Maine/Georges Bank stocks. Throughout the assessment's development, these three individuals consistently brought innovative ideas and technical expertise to SAS discussions. Their contributions and resourcefulness kept the assessment moving forward despite the complex challenges posed by the incorporation of new data to address environmental impacts on the lobster stocks. The contributions of these three individuals were essential to the successful completion and peer review of the 2020 assessment, as well as the adoption of updated reference points by the Management Board.

Dr. Bryan Nuse, Bird Conservancy of the Rockies, and Dr. Anna Tucker, Iowa Cooperative Fish & Wildlife Research Unit Delaware Division of Fish and Wildlife

Dr. Bryan Nuse, a Research Scientist with the Bird Conservancy of the Rockies, and Dr. Anna Tucker, Assistant Professor at Iowa Cooperative Fish & Wildlife Research Unit, were instrumental in the development of the revised Adaptive Resource Management (ARM) Framework for the management of horseshoe crabs with consideration for the threatened red knot. In October 2019, the ARM Subcommittee was directed to revise the ARM Framework to incorporate more available data and update the software platform. The ARM Subcommittee recognized it would need expertise in adaptive management and quantitative ecology to successfully model the two species and revise the ARM Framework. Dr. Nuse was added to the committee as an ecologist with experience in bird conservation, adaptive management, and population models. Dr. Tucker joined the effort because she developed a state-of-the-science integrated population model for red knots as part of her PhD thesis with Auburn University and postdoctoral research with the USGS Patuxent Wildlife Research Center. While development of the ARM Framework was a lengthy process involving many collaborators, this substantial achievement would not have been possible without the contributions of Drs. Nuse and Tucker.

Caitlin Starks, Atlantic State Marine Fisheries Commission

Caitlin Starks, ASMFC Fishery Management Plan Coordinator for numerous species, is being recognized for her meticulous and thorough preparation prior to meetings, her command in leading the meetings in an effective and efficient manner, and her timely and detailed meeting follow-ups. In particular, Ms. Starks steady support and guidance in leading the Shad Technical Committee through many challenging meetings as they prepared the 2021 Benchmark Stock Assessment for American Shad. Disagreements between Committee members within a meeting routinely occurred and Ms. Starks would often offer reasonable solutions that allowed opposing sides to reach compromise and advance forward. During the assessment, Ms. Starks did a phenomenal job of keeping the Committee moving through the grind of completing what could have been a daunting task. She often went above the call of duty by having a multitude of meetings ensuring all states were well informed; all Committee members were engaged in and supportive of the assessment; all potential data sources had been identified and thoroughly vetted

for potential use in the assessment; and all questions from members were answered before a final product was affirmed.

Law Enforcement Contributions

New Jersey Department of Environmental Protection, Bureau of Law Enforcement

The New Jersey Department of Environmental Protection's Bureau of Law Enforcement is recognized for its outstanding efforts to control illegal harvest of Atlantic striped bass from Raritan Bay and its tributaries. New Jersey Conservation Police Officers from both the inland and marine regions throughout the state were involved with the operation across New Jersey's portion of the watershed. In December 2021, more than 200 summonses were issued and more than 500 illegal striped bass were confiscated. Efforts continued throughout the spring of 2022. From early March to the middle of May 2022, approximately 4,000 inspections were conducted over the course of 650 patrol hours within Raritan Bay, Newark Bay, Arthur Kill, and the Hudson River. These efforts resulted in over 300 summonses being issued for violations including undersized fish, over the limit catch, fishing during the closed season, and interference with the duties of a conservation officer. When possible, some of the seized fish were donated to food banks, while others were submitted to New Jersey Bureau of Marine Fisheries for the collection of biological data. The dedication and commitment of the Bureau's Conservation Police Officers to the enforcement of sustainable fisheries regulations is truly worthy of recognition.

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PR22-21

EXECUTIVE COMMITTEE (AUGUST 3, 2022)

Meeting Summary

The Executive Committee (EC) met to discuss several issues, including a CARES Act update; an updated Investment Policy; the report of the *De Minimis* Work Group; proposed revisions to the Commission's Appeals Process; and also received an update on the Responsible Offshore Science Alliance. The following action items resulted from the Committee's discussions:

- Mr. Beal presented an update on the CARES Act. The first round of CARES funding is almost fully disbursed, except for \$1,000,000 which will be spent by the end of 2022. There remains about \$20,000,000 in CAA which is on track to be fully spent by June 2023. If there are funds that will not be able to be disbursed, the Executive Committee will consider reallocating these funds to states who have remaining needs.
- Mr. Beal presented the Commission's updated Investment Policy, which has two tiers, an Operating account and a Reserve Fund, instead of three tiers in the original Policy.
- Ms. Kerns presented a report of the *De Minimis* Work Group (WG). The WG developed a white paper which outlines a draft policy setting *de minimis* standards for Commission FMPs. The Executive Committee forwarded the white paper to the ISFMP Policy Board for Consideration.
- Mr. Beal presented the further draft revisions to the Appeals Process. The updated process better defined the range of options available for corrective action, provides the opportunity for the Policy Board to request additional technical information, and recognizes the potential interactions with the Councils on jointly managed plans. The updated Appeals Process was recommended to the Policy Board for consideration and approval.
- Ms. Hice-Dunton provided an overview of the Responsible Offshore Science Alliance (ROSA), and requested the states consider providing financial support to the efforts of ROSA.

For more information, please contact Laura Leach, Director of Finance & Administration, at lleach@asmfc.org or 703.842.0740.

Motions

Motion to approve the revised Investment Policy.

Motion made by Ms. Patterson and seconded by Mr. Keliher. Motion passed unanimously.

Motion to accept the proposed changes to the Commission's appeals process to be forwarded to the Policy Board for action.

Motion made by Mr. Clark and seconded by Ms. Patterson. Motion passed unanimously.

HORSESHOE CRAB MANAGEMENT BOARD (AUGUST 3, 2022)

Press Release

ASMFC Horseshoe Crab Board Approves Draft Addendum VIII for Public Comment to Consider Changes to Delaware Bay Management

Arlington, VA – The Commission's Horseshoe Crab Management Board reviewed and approved Draft Addendum VIII for public comment. Draft Addendum VIII considers adopting the changes to the Adaptive Resource Management (ARM) Framework recommended in the 2021 ARM Framework Revision and allowing its use in setting annual bait harvest specifications for horseshoe crabs of Delaware Bay-origin.

The Board initiated Draft Addendum VIII in January 2022, after it accepted the 2021 ARM Framework Revision and Peer Review Report for management use. The ARM Revision was endorsed by the independent peer review panel as the best and most current scientific information for the management of horseshoe crabs in the Delaware Bay region, as it addresses previous peer review critiques, includes new sources of data, and adopts new modeling software to set harvest levels for Delaware Bay-origin horseshoe crabs that account for the forage needs of migratory shorebirds.

"The ARM Framework Revision is a necessary and important improvement to the original ARM Framework, which was no longer operational given its obsolete programming," stated Board Chair John Clark of Delaware. "Like the original ARM Framework, its output provides options for both male and female horseshoe crab harvest based on the abundance levels of horseshoe crabs of Delaware Bay-origin and red knots. Consistent with the Commission's specification setting for all ASMFC species, the Board, as well as the individual states, have the prerogative to choose more conservative harvest strategies than those provided by the species technical committee or, in this case, the ARM Framework Revision."

Since 2013, horseshoe crabs in the Delaware Bay Region (New Jersey, Delaware, Maryland, and Virginia) have been managed under the ARM Framework to set harvest levels with consideration of the needs of migratory shorebirds. The ARM was developed jointly by the Commission, U.S. Fish and Wildlife Service, and U.S. Geological Survey in recognition of the importance of horseshoe crab eggs to migratory shorebirds stopping over in the Delaware Bay region. In particular, horseshoe crab eggs are a critical food source for the rufa red knot, which is listed as threatened under the Endangered Species Act. The 2021 Revision includes improvements to the ARM Framework's population models for horseshoe crabs and red knots and incorporates more sources of horseshoe crab removal data, including mortality due to the biomedical industry and commercial discards from other fisheries.

Draft Addendum VIII includes two proposed options: no action and an option to adopt the changes to the ARM Framework recommended in the 2021 Revision for use in setting annual bait harvest specifications for horseshoe crabs of Delaware Bay-origin. The changes proposed include using sex-specific harvest recommendations on a continuous scale rather than the previous discrete harvest packages, slight modifications to the adaptive management cycle, revised proportions of each state's harvest that is of Delaware Bay-origin, and the resulting state allocations. The maximum amount of male and female horseshoe crab harvest (210,000 females and 500,000 males), the general structure of how the ARM optimal harvest output is allocated among the four Delaware bay states, and the conceptual model of horseshoe crab abundance influencing red knot survival and reproduction remain the same in the ARM Revision, with the intent of ensuring the abundance of horseshoe crabs does not become a limiting factor in the population growth of red knots. If no action is taken, management measures would revert back to the provisions of Addendum VI.

The Board recognizes there is considerable public concern about the potential impact of the ARM Revision on the status of the threatened red knot and is committed to fully evaluating its possible use in setting harvest levels for horseshoe crabs of Delaware Bay-origin through the public comment process. A press release will follow with details on the public hearing schedule and how to submit written comments. The Board will meet to review submitted comment and consider final action on the addendum at its next meeting.

A more detailed overview of the 2021 ARM Revision can be found [here](#). The final ARM Revision and Peer Review Report is available [here](#). For more information, please contact Caitlin Starks, Fishery Management Coordinator, at cstarks@asmfc.org or 703.842.0740.

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PR22-22

Meeting Summary

In addition to approving Draft Addendum VIII for public comment, the Board considered an update on the task to review of biomedical mortality and best management practices for biomedical collections, Advisory Panel nominations, and the election of a Vice Chair.

The Board reviewed comments and recommendations from the Plan Development Team (PDT), Technical Committee (TC), and Advisory Panel (AP) on the PDT task to review the threshold for biomedical mortality, developing biologically-based options for the threshold and options for action when the threshold is exceeded, and reviewing the best management practices (BMPs) for handling biomedical catch to suggest options for updating and implementing BMPs. The PDT requested the TC and AP review available information to address this task and provide input to the PDT. The TC determined a coastwide biologically-based threshold cannot be established given the lack of population estimates for the coast; therefore the PDT did not recommend setting a biologically-based threshold for biomedical mortality. With regard to the BMPs for biomedical handling, the TC, AP, and PDT supported forming a Work Group to review and update the BMPs. The Board agreed to take no action on the biomedical mortality threshold at this time, noting biomedical mortality contributes a relatively small amount of overall mortality, but will continue to annually review estimated biomedical mortality levels. The Board also agreed to form a Work Group to address the biomedical BMPs.

The Board approved several nominations to the Horseshoe Crab AP: David Mesurvey, an inshore commercial otter from Massachusetts, Jordan Giuttari, a commercial fisherman and dealer/processor from

Delaware, and Matt Sarver, a conservationist from Delaware. The Board also elected Dr. Justin Davis of Connecticut to serve as Vice Chair.

For more information, please contact Caitlin Starks, Senior Fishery Management Plan Coordinator, at cstarks@asmfc.org or 703.842.0740.

Motions

Move to approve Draft Addendum VIII for public comment.

Motion by Mr. Miller, second by Mr. Luisi. Motion passes (15 in favor).

Move to approve Horseshoe Crab Advisory Panel nominations for David Meservey from Massachusetts, and Jordan Giuttari and Matt Sarver from Delaware.

Motion made by Mr. McKiernan and seconded by Mr. Hasbrouck. Motion is approved by consent.

Move to elect Dr. Justin Davis of Connecticut as Vice-Chair of the Horseshoe Crab Management Board.

Motion made by Mr. Cimino and seconded by Mr. Gilmore. Motion is approved by consent.

LEGISLATIVE AND GOVERNORS' APPOINTEES LUNCHEON (AUGUST 3, 2022)

Meeting Summary

The Legislative and Governor Appointee (LGA) Commissioners discussed the evolution of LGA participation and the role of the LGA Co-Chairs. Notably, the LGA Co-Chairs represent all LGA Commissioners on ASMFC's Executive Committee and Administrative Oversight Committee. The current LGA Co-Chairs are Dennis Abbott of New Hampshire (Legislative) and Roy Miller of Delaware (Governor Appointee). LGA Commissioners received an update from Legislative Committee Chair, Bill Hyatt of Connecticut. Bill focused on LGA Commissioner advocacy in support of the Recovering America's Wildlife Act. LGA Commissioners discussed challenges associated with time commitments of their roles and the fact that they are not compensated for their time. LGA Commissioners noted there is a high amount of turnover on the horizon and educating new LGA Commissioners about ASMFC and roles they can fill will need to be a priority. Finally, LGA Commissioners discussed ASMFC's Financial Disclosure Policy and possible conflicts associated with appointing state agency staff to proxy for LGA Commissioners. LGA Commissioners closed the meeting with a standing ovation for Ritchie White of New Hampshire for his many contributions to the Commission over the years. This is Ritchie's last meeting as a Commissioner. Ritchie is a past Capt. David Hart Award recipient and previously served the Governor Appointees' representative on the Commission's Executive Committee.

For more information, please contact Deke Tompkins, Legislative Executive Assistant, at dtompkins@asmfc.org.

PRESENTATION ON NOAA ATLANTIC STURGEON BYCATCH WORK GROUP DRAFT ACTION PLAN (AUGUST 3, 2022)

Meeting Summary

Spencer Talmage, Fishery Management Specialist for the National Marine Fisheries Service's (NMFS) Greater Atlantic Regional Fisheries Office, presented an overview on NOAA's progress in developing a Draft Action Plan for Atlantic Sturgeon Bycatch as required under the Endangered Species Act (ESA).

Fisheries bycatch is a significant threat to the endangered Atlantic sturgeon, particularly in the large mesh gillnet fishery.

In response to the Biological Opinion from May 27, 2021, which reviewed the impacts of the implementation of ten fishery management plans and the New England Fishery Management Council's Omnibus Essential Fish Habitat Amendment 2 on ESA-listed species and designated critical habitat, NMFS convened the working group to review the available information for all five Atlantic sturgeon Distinct Population Segments regarding distribution, gillnet bycatch, mitigation, and post-release mortality. The resulting Draft Action Plan is recommending a number of management actions for the New England and Mid-Atlantic Fishery Management Councils and the Commission to consider in coordination with NMFS, including:

- Requirements to use bycatch mitigating low-profile gillnet gear
- implementation of closure or gear restricted areas in regions where Atlantic sturgeon bycatch is more common
- limitations on soak time for gillnet gear

In addition, the Action Plan recommends a prioritization of research to better understand post-release mortality of Atlantic sturgeon captured in sink gillnet gear. The Draft Action Plan, which is scheduled for finalization in September 2022, can be found at <https://www.fisheries.noaa.gov/bulletin/draft-action-plan-released-reduce-atlantic-sturgeon-bycatch-federal-large-mesh-gillnet>. For more information, please contact Spencer Talmage at spencer.talmage@noaa.gov.

ATLANTIC MENHADEN MANAGEMENT BOARD (AUGUST 3, 2022)

Press Releases

ASMFC Atlantic Menhaden Board Approves Draft Addendum I for Public Comment to Consider Commercial Allocations, Episodic Event Set Asides, and Incidental Catch/Small-Scale Fisheries

Stock Assessment Update Finds Resource is Not Overfished or Experiencing Overfishing

Arlington, VA – The Commission's Atlantic Menhaden Management Board approved Draft Addendum I to Amendment 3 to the Interstate Fishery Management Plan for Atlantic Menhaden for public comment. The Draft Addendum considers potential changes to Amendment 3 provisions for commercial allocations, the episodic event set aside (EESA) program, and the incidental catch and small-scale fisheries (IC/SSF) provision.

The Board initiated Draft Addendum I in August 2021 in response to the recommendations of a Board work group charged with evaluating provisions of the current management program and providing strategies to refine those provisions. Since Amendment 3 was adopted in 2017, the EESA and IC/SSF provisions have been impacted by recent trends in landings. The impacts have been most notable in New England, which has seen an increase in abundance of menhaden and demand for bait in recent years. New England states rely on the EESA to keep their commercial fisheries open while working to secure quota transfers. In addition the increases have led to a rise in landings under the IC/SSF provision once commercial quotas have been met. The options in the Draft Addendum aim to align

state quotas with recent landings and resource availability while maintaining access to the resource for all states, reduce dependence on quota transfers, and minimize regulatory discards.

The Draft Addendum's proposed options consider changes to the baseline quota of 0.5% and the time series that apportions the remaining quota to each jurisdiction, which is currently historic landings from 2009 to 2011. Furthermore, options within the Draft Addendum consider giving the Board the ability to change the proportion of the EESA from 1% up to 5%, with the option to make the potential change static with the approval of the Draft Addendum or dynamic such that the Board can reset it during the specification process. The Draft Addendum proposes a number of options to modify the IC/SSF provision in four major categories: the timing of the provision, permitted gear types, trip limits for permitted gear types, and catch accounting for the provision.

The Draft Addendum will be posted to the website next week at <http://www.asmfc.org/about-us/public-input>. A subsequent press release will provide the details on the public hearing schedule and how to submit written comments. The Board will meet to review submitted comment and consider final action on the addendum in November at the Commission's Annual Meeting in New Jersey.

Stock Assessment Update

The Board also reviewed the results of the 2022 Atlantic Menhaden Stock Assessment Update, which indicates the resource is not overfished nor experiencing overfishing relative to the current ecological reference points (ERPs). In 2021, population fecundity, a measure of reproductive capacity, is above both the ERP threshold and target and total fishing mortality is below both the ERP threshold and target. The stock assessment update extended the 2019 Atlantic Menhaden Single-Species Benchmark Stock Assessment model with additional years of data from 2018-2021 and made some changes to the model structure. Work is also underway for an Atlantic Menhaden-specific ERP Benchmark Assessment, which is scheduled for completion in 2025.

The Assessment Update, as well as an overview to that update, will be posted to the Commission's website by mid-August at <http://www.asmfc.org/species/atlantic-menhaden> under Stock Assessment Reports. For more information, please contact James Boyle, Fishery Management Plan Coordinator, at jboyle@asmfc.org or 703.842.0740.

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PR22-23

Meeting Summary

In addition to reviewing the 2022 Single-Species Stock Assessment Update and approving Draft Addendum I for public comment, the Atlantic Menhaden Management Board met to review the 2021 Fishery Management Plan (FMP) Review and approve a nomination to the Advisory Panel.

The Board approved the FMP Review for the 2021 fishing year, as well *de minimis* status for Pennsylvania, South Carolina, Georgia, and Florida. The coastwide total allowable catch (TAC) for the 2021 and 2022 fishing years is 194,400 mt. According to state compliance reports, total catch in 2021 including directed, incidental/small-scale fishery (IC/SSF), and episodic event set aside (EESA) landings was approximately 195,092 mt. IC/SSF landings, which do not count towards the coastwide TAC, amounted to 5,750 mt representing a 9% decrease from 2020. Therefore, non-incidental landings in 2021 totaled 189,343 mt, which is approximately 97% of the coastwide TAC and a 6% increase from

2020. While bait landings decreased from 2020, reduction landings increased by 10%. Staff noted that there were some differences between the landings reported in state compliance reports and landings validated for use in the stock assessment, but the validated non-incidental landings total is still below the TAC. In response to the differences between the validated landings and the reported landings, the Board approved a recommendation to change the compliance report due date from April 1st to August 1st which allow states more time to collect their data and improve the accuracy of the reports.

The Plan Review Team (PRT) repeated its request for the Board's consideration regarding the current 10-fish biological sample requirement to categorize the impact of the commercial gear types on the menhaden population. The PRT recommended the Board task the Technical Committee with reviewing whether the requirement is sufficient and if it is appropriate for states to use fishery-independent data to fulfill the requirement. However, before the meeting, Staff included a review of the requirements in the draft Terms of Reference for the 2025 Benchmark Stock Assessment, which will be presented to the Board in 2023.

The Board approved the nomination of Barbara Garrity-Blake of North Carolina to the Atlantic Menhaden Advisory Panel. For more information contact James Boyle, Fishery Management Plan Coordinator at jboyle@asmfc.org or 703.842.0740.

Motions

Move to approve Fishery Management Plan Review, state compliance reports, and *de minimis* requests for PA, SC, GA, and FL for Atlantic menhaden for the 2021 fishing year

Motion made by Mr. Clark and seconded by Mr. Geer. Motion carries.

Move to remove *Option 3B: Weighted Allocation Timeframe #2* from Section 3.1.2. in Draft Addendum I.

Motion made by Ms. Patterson and seconded by Mr. Kuhn. Motion passes (11 in favor, 5 opposed, 2 abstentions).

Move to modify section 3.3.2 option 3 by adding “existing beach seine fisheries”

Motion made by Mr. Gilmore and seconded by Mr. Cimino. Motion fails for lack of a majority (1 in favor, 14 opposed, 1 null).

Move to approve Draft Addendum I for Public Comment, as amended today.

Motion made by Ms. Ware and seconded by Ms. Patterson. Motion carries with 1 objection (NY).

Move to approve the nomination of Barbara Garrity-Blake from NC to the Atlantic Menhaden Advisory Panel.

Motion made by Mr. Batsavage and seconded by Mr. Geer. Motion passes.

SCIAENIDS MANAGEMENT BOARD (AUGUST 4, 2022)

Meeting Summary

The Sciaenids Management Board met to consider several items: Traffic Light Analysis reports for spot and Atlantic croaker, a research project on estimating regional spot abundance and mortality rates,

Fishery Management Plan Reviews and state compliance reports for red drum and Atlantic croaker, and an update on the ongoing Black Drum Benchmark Stock Assessment.

The Chairs of the Spot and Atlantic Croaker Technical Committees (TCs) presented the findings of the 2022 Traffic Light Analysis (TLA) reports to the Board. The TLA assigns a color (red, yellow, or green) to categorize relative levels of indicators based on the condition of the fish population (abundance metric) or fishery (harvest metric). For example, as harvest or abundance increases relative to a reference period, the proportion of green in a given year will increase. The Board annually evaluates the proportion of red against threshold levels to potentially trigger management action. In 2020, the TLA for the 2019 fishing year indicated that both species triggered at the 30% red threshold. State implementation plans for management measures were approved in early 2021 and all new management measures were enacted by the end of 2021. These management measures cannot be relaxed for at least two years for spot and three years for Atlantic croaker. Therefore, spot management is due to be reevaluated this year for any potential changes in management in 2023 and Atlantic croaker management will be reevaluated next year. Due to multiple years of missing fishery independent survey data and the lack of concerning trends in the available data, the Spot TC recommended that any determination on the spot TLA should wait until 2023 when it is expected that complete data from all surveys will be available, and maintaining management measures. Similarly, the Atlantic Croaker TC also recommended maintaining management measures, and reevaluating the Atlantic Croaker TLA in 2023 when all data are expected to be available.

The Board received a presentation on a research project that will be conducted by Drs. Rob Latour and Mike Wilberg of the Virginia Institute of Marine Science and the Chesapeake Biological Laboratory, respectively. The study will estimate spot abundance and mortality rates in specific regions using a spatial model. This research project will be separate from but occur in conjunction with the upcoming spot 2024 benchmark stock assessment.

The Board reviewed and approved the 2021 Fishing Year FMP Reviews and state compliance reports for red drum and Atlantic croaker. *De minimis* status was approved for New Jersey's and Delaware's 2023 red drum fisheries. For Atlantic croaker, *de minimis* status was approved for New Jersey (commercial and recreational), Delaware (commercial and recreational), South Carolina (commercial), and Georgia (commercial).

The Board received an update on the ongoing Black Drum Benchmark Stock Assessment. The Black Drum Stock Assessment Subcommittee has met several times, most recently for a Stock Assessment Workshop in July 2022. A peer review workshop for the Black Drum Benchmark Stock Assessment is tentatively scheduled for December 2022. The assessment is on track to be completed by January 2023.

Erika Burgess (FL) updated the Board on new management regions and regulation changes for red drum in Florida state waters following a final rule hearing by the Florida Fish and Wildlife Conservation Commission, which will go into effect on September 1, 2022. More information on these changes can be found [here](#). Doug Haymans also informed the Board that Georgia is in the process of considering regulatory changes for red drum to restrict harvest. The Board will receive an update on these changes at the Sciaenid Management Board's Winter 2023 meeting.

The Board elected Doug Haymans as Vice-Chair for the Sciaenids Management Board. For more information, please contact Tracey Bauer, Fishery Management Plan Coordinator, at tbauer@asmfc.org or 703.842.0740.

Motions

Move to approve the Red Drum FMP Review for the 2021 fishing year as amended today, state compliance reports, and *de minimis* status for New Jersey and Delaware.

Motion made by Ms. Fegley and seconded by Mr. Haymans. Motion passes unanimously.

Move to approve the Atlantic Croaker FMP Review for the 2021 fishing year, state compliance reports, and *de minimis* status for New Jersey, Delaware, South Carolina, and Georgia commercial fisheries and New Jersey and Delaware recreational fisheries.

Motion made by Mr. Gary and seconded by Mr. Fote. Motion passes unanimously.

Move to nominate Doug Haymans as Vice-chair of the Sciaenids Management Board.

Motion made by Mr. Geer and seconded by Mr. Woodward. Motion passes unanimously.

INTERSTATE FISHERIES MANAGEMENT PROGRAM (ISFMP) POLICY BOARD (AUGUST 4, 2022)

Meeting Summary

The ISFMP Policy Board met to address a full slate of issues; the details of which follow. The Commission Chair Spud Woodard presented the Executive Committee Report (see Executive Committee meeting summary earlier in this document).

Appeals Process

The ISFMP Charter includes an opportunity for a state to appeal species management board decisions. A process was implemented in 2003 and revised to clarify appeal criteria. After the 2021 appeal decision regarding black sea bass commercial allocation, it was suggested additional improvements to the process may be appropriate. Staff presented a revised Appeals Process that included changes to addresses (1) when the current or past Commission Chair or the Vice-Chair is from the appealing state, (2) requirements for the scope of the potential corrective action designated by the Policy Board, and (3) what happens if the management board is unable to make the changes necessary to respond to the findings of the Policy Board. The Policy Board approved the revised Appeals Process.

De Minimis Provisions

The Commission includes *de minimis* provisions in interstate FMPs to reduce the management burden for states that have a negligible effect on the conservation of a species. The *de minimis* provisions in FMPs vary by species and include a range of requirements for management measures, reporting requirements, and *de minimis* qualification periods. The Policy Board tasked a Work Group to draft a policy that would establish *de minimis* standards across all FMP but allow for exceptions for unique characteristics of a species. The Policy Board provided staff with preferred options for the draft policy which will be considered for approval at the Commission's Annual Meeting in November.

East Coast Climate Change Scenario Initiative

Over the past year, East Coast fishery management bodies have been collaborating on a climate

change scenario planning initiative designed to prepare fishing communities and fishery managers for an era of climate change. The goals of this project are to assess how climate change might affect stock distribution and availability of East Coast marine fisheries over the next 20 years and to identify the implications for fishery management and governance. Staff reviewed progress of the initiative including the draft future scenario created at the June. Workshop. This scenario describes how changing oceanographic, biological, and social/economic conditions could combine to create future challenges and opportunities for East Coast fisheries. Staff outlined the next steps in the scenario planning process including deepening webinars, manager brainstorming work groups, Commission input and a summit meeting.

NOAA Climate, Ecosystems, and Fisheries Initiative

Jon Hare with NOAA Fisheries reviewed the NOAA Climate, Ecosystems, and Fisheries Initiative (CEFI). Climate change is significantly impacting the nation's valuable marine and Great Lakes ecosystems, fisheries, and the many people, communities, and economies that depend upon them. Warming oceans, rising seas, melting sea ice, and increasing acidification are affecting ecosystem structure and the distribution and abundance of marine species. These changes affect many parts of NOAA's mission, from fisheries management and aquaculture to conservation of protected resources and habitats. To safeguard fisheries and other resources in the face of rapidly changing oceans, resource managers and stakeholders urgently need better information on what's changing, who's at risk and how to increase resilience. CEFI is a cross-NOAA effort to build the nation-wide, operational ocean modeling and decision support system (system) needed to reduce impacts, increase resilience and help marine resources and resource users adapt to changing ocean conditions. The end-to-end system will provide decision makers with the actionable information and capacity they need to prepare for and respond to changing conditions today, next year and for decades to come.

Draft Risk and Uncertainty Policy

Jason McNamee provided an update on the Commission's draft Risk and Uncertainty Policy. At the 2021 Winter Meeting, the Policy Board recommended using tautog as a pilot case for the policy. The Tautog Board reviewed the decision tools and the Preliminary Tautog Risk and Uncertainty Report at the 2021 Fall Meeting. However, because the Tautog Board did not initiate a management action at the meeting, the final steps of the risk and uncertainty process were not completed. In the absence of a management action to apply the process to, the Tautog Board tasked staff with developing hypothetical scenarios to illustrate how the tool would have worked in order to complete the tautog pilot case and improve understanding of the process.

The Policy Board provided feedback on the next steps for the Risk and Uncertainty Policy. The Board recommended moving forward with conditional approval of the policy (which will be considered at a future meeting), while also exploring the possibility of conducting another test case and developing a version of the process for data poor species. There was also discussion of the pros and cons of applying the policy to species that are managed under joint or complementary FMPs.

Northeast Area Monitoring and Assessment Program (NEAMAP)

Nicole Lengyel Costa presented an overview of NEAMAP and the new NEAMAP survey definition, as well as the planned next steps for developing NEAMAP principals and protocols. NEAMAP is a cooperative state/federal program facilitating fishery-independent data collection, analysis and dissemination in the Northeast (ME to NC). Current NEAMAP surveys include the Southern New England/Mid-Atlantic Nearshore Trawl Survey (VIMS), Maine-New Hampshire Inshore Trawl Survey,

and the Massachusetts Division of Marine Fisheries Bottom Trawl Survey. However, a number of other trawl surveys are conducted by NEAMAP partner state and federal agencies which could be included under the NEAMAP umbrella. In addition, there has been an ongoing need to clarify what criteria NEAMAP surveys must meet, as well as whether or not NEAMAP should develop common protocols. The NEAMAP Operations Committee (OC) developed a draft NEAMAP survey definition to clarify to the public what constitutes a “NEAMAP survey.” The new definition would expand the NEAMAP survey label to the other NEAMAP partner trawl surveys. The OC is also working to develop a high-level set of NEAMAP principles and guidance documents on specific technical topics. These principles and guidance documents will not require methodology changes from ongoing survey but will serve to define best practices.

Legislative Committee Update

Legislative Committee Chair, Bill Hyatt of Connecticut, summarized the committee’s recent activities, including Congressional engagement on the Recovering America’s Wildlife Act, the Forage Fish Conservation Act, the Shark Fin Sales Elimination Act, and FY22-24 appropriations to address state/interstate priorities. The Policy Board agreed to send a support letter to the U.S. House Committee on Natural Resources in support of the Resilient Coasts and Estuaries Act. The Policy Board requested consideration of the Reinvesting in Shoreline Economies and Ecosystems Act by the Legislative Committee.

Updates from the Atlantic Coastal Fish Habitat Partnership (ACGHP) and ASMFC Habitat Committee

Dr. Lisa Havel provided updates on ACFHP and the Habitat Committee (HC). The ACFHP Steering Committee met in July where it focused on drafting the next five-year strategic plan for 2022-2026. Dr. Havel presented a brief overview of the five National Fish Habitat Partnership-funded projects in the ACFHP region for FY2022. A total of \$250,000 is being distributed to projects in Maine, Massachusetts, Connecticut, New Jersey, and Maryland to open 185 river miles, provide access to over 9,000 acres of spawning habitat, and restore 4.5 acres of benthic estuarine habitat.

At the May HC meeting, the HC discussed the status and next steps for the documents it is currently working on: *Acoustic Impacts to Fisheries*, *Fish Habitats of Concern*, and the next *Habitat Hotline Atlantic*. The Committee also received presentations on the current status of Delaware River Atlantic sturgeon and on the Northeast Regional Habitat Assessment. Dr. Havel provided an update to the Policy Board on the status of the fish habitats of concern designations. The Policy Board unanimously approved the Update to the 2018 Atlantic States Marine Fisheries Commission State Climate Change Initiative Gaps and Recommendations Report.

Assessment Science Committee Report

The Policy Board approved the revised Commission stock assessment schedule. Changes include (1) a delay in the black sea bass research track assessment from fall 2022 to spring 2023, which will be followed by management track assessment in June 2023; and (2) the addition of a tautog assessment update for 2024. In addition, assessments for 2025 and 2026 were added to the schedule. Staff gave an update on the progress of the river herring and American eel stock assessments. River herring recently started work on the data workshop and the eel assessment will be ready for peer review later this year.

Blue Catfish Science in the Chesapeake Bay

A review of blue catfish science in the Chesapeake Bay was presented to the Policy Board. Mandy

Bromilow with NOAA Fisheries Chesapeake Bay Office presented an overview of the Invasive Catfish Work Group. The workgroup coordinates activities and recommends actions to implement the five policy objectives outlined in the [Invasive Catfish Policy Adoption Statement](#). The Work Group emphasizes bay-wide communication among jurisdictions and engagement of a broad group of members representing the commercial and recreational fishery, seafood processing industry, state agencies and the science community. In addition, it is responsible for coordinating the best available science and developing methods to evaluate the impacts of invasive catfish species on the Chesapeake Bay ecosystem. Christine Densmore with the U.S. Geological Survey Eastern Ecological Science Center presented research which provides information related to blue catfish life history in Chesapeake Bay tributaries to inform resource managers as to (1) the potential ecosystem-level impacts of this aquatic nuisance species and (2) possible mitigation strategies to minimize these impacts. It included blue catfish dietary analyses and other life history indicators related to health and reproduction, as well as range and movement studies by partner agencies.

Draft Action Plan for Atlantic Sturgeon Bycatch

The Policy Board agreed to submit comments to NOAA Fisheries on the Draft Action Plan for Atlantic Sturgeon Bycatch (see the summary of the presentation earlier in this document). The Policy Board is concerned NOAA is not considering the Atlantic Large Whale Take Reduction Team (TRT) actions in the gillnet fishery and the potential impacts those measures could have on Atlantic sturgeon. The Board recommends NOAA evaluates any draft TRT measures before impacting the gillnet fishery with the Draft Action Plan.

Sharon Benjamin presented NOAA Fisheries first-ever draft [Equity and Environmental Justice Strategy](#). NOAA Fisheries endeavors to serve stakeholders equitably by engaging underserved communities in the science, conservation, and management of the nation's ocean resources and their habitat. This national strategy builds on previous equity and environmental justice (EEJ) efforts to provide guidance for incorporating and prioritizing EEJ in ongoing and future activities in support of NOAA Fisheries' mission. NOAA Fisheries' science, conservation, and management activities serve a diverse array of communities across the United States and Territories. Recognizing that not all communities have equal opportunities and access to its services, three overarching goals have been identified. Identifying and recognizing underserved communities, as well as addressing access barriers they face, will allow NOAA Fisheries to more equitably and effectively serve all communities.

For more information, please contact Toni Kerns, Fisheries Policy Director, at tkerns@asmfc.org or 703.842.0740.

Motions

No motions made.